

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DARREN E. THOMAS, et al.,

Plaintiffs,

-against-

JOHN VENDITTO, et al.,

Defendants.

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DARREN E. THOMAS,

Plaintiff,

-against-

TOWN OF OYSTER BAY, et al.,

Defendants.

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By letter applications dated December 5, 2012, counsel for defendants in the above actions both seek an award, pursuant to Local Civil Rule 30.1, of reasonable attorney's fees and expenses incurred in connection with three, possibly four, out-of-state depositions of non-party witnesses. Plaintiffs strongly oppose defendants' applications.

Defendants' requests are denied, without prejudice to renewal upon completion of the depositions. While Local Civil Rule 30.1 permits the Court to issue the requested order "prior to the examination," Local Civ. R. 30.1, it is virtually impossible to estimate in advance what the costs and fees incurred may be, especially here, where the number of depositions is still not finalized. Having said that, I urge the parties to consider taking these depositions by telephone to minimize the cost involved. See Fed. R. Civ. P. 30(b)(4). This would seem especially

appropriate since defendants have expressed concerns that the four non-parties involved are appearing solely pursuant to subpoena and may not appear.¹ In any event, I find it more prudent to delay any such application until after completion of the relevant depositions. See Ohlson v. The Cadle Co., Inc., No. CV 04-3418, 2010 U.S. Dist. LEXIS 17712, at *3-4 (E.D.N.Y. Mar. 1, 2010) (denying request for costs and fees pursuant to Local Civil Rule 30.1, without prejudice to renewal upon completion of deposition).

SO ORDERED:

Dated: Central Islip, New York
December 10, 2012

/s/ E. Thomas Boyle
E. THOMAS BOYLE
United States Magistrate Judge

¹ The Court assumes that a separate subpoena has issued from each judicial district in Florida, Maryland and Colorado involved in these depositions. Issuance of subpoenae from the Eastern District of New York would not be enforceable. See Fed. R. Civ. P. 45(a)(2)(B), (C).